IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4969 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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RAMESHKUMAR HARMANBHAI PATEL

Versus

VADODARA URBAN DEVELOPMENT AUTHORITY

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Appearance:

1. Special Civil Application No. 4969 of 1995

MR MC BHATT for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1

MR PRANAV G DESAI for Respondent No. 2

MS ARCHANA RAVAL for Respondent No. 3

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CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 06/05/2004

ORAL JUDGEMENT

1. The petitioner has preferred the present petition under Article 226 of the Constitution of India challenging the inaction on the part of the respondents to the effect that there was no de-reserving land in question even after issuance of the notice u/s 20 (2) of the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the Act, 1976" for short).

2. Learned advocate for the petitioner submitted that after commencement of the final development plan for the impugned land bearing Survey No. 322 situated at village Gorva, District Sub-District Vadodara, the land was continuously reserved for the purposed of local centre by the respondent - authorities for the period of 10 years and after completion of the said period the notice u/s 20 of the Act, 1976 was given by the respondents to the petitioner. It is contended by the learned advocate appearing for the petitioner that neither the proceedings under the Land Acquisition Act, 1894 has been initiated for acquisition of land nor the land was ordered to be de-reserved. Therefore, the respondent - authorities must be directed by issuing writ of mandamus for de-reserving the impugned land of the petitioner unauthorisedly cutaneously by the respondents.

3. Learned advocate appearing for the respondents no.1 and 2 submitted that the resolution has been passed by the respondent no. 1 - Vadodara Municipal Corporation to the effect that "The Vadodara Urban Development Authority has resolved in its 182 meeting held on dated 23-10-2003 vide resolution no.1690 - to re-deserve the disputed land and designate the land for residential use. The same proposal had been sent to Government by Vadodara Urban Development Authority on dated 8/12/2003 for vary the development plan accordingly, under Sec.19 of Gujarat Town Planning and Urban Development Act, 1976. The proposal is pending at Government level."

4. On the basis of the aforesaid resolution, learned advocate for the respondents no.1 and 2 submitted that the grievance ventilated in the petition by the petitioner come to an end. The impugned land is reserved or released from reservation, the same is now designated for residential use and therefore second prayer of the petitioner that the plan for construction may be verified by the respondents no.1 and 2 - authorities and necessary development permission may be given, will be considered in accordance with law by the concerned authorities of the respondents.

5. In view of the aforesaid facts and circumstances

of the case and aforesaid resolution passed by the respondent - Vadodara Municipal Corporation, the learned advocate for the petitioner is satisfied and now nothing to be done in this petition. Accordingly, this petition stands disposed of. Rule is discharged, with no order as to costs.

(D.N. Patel, J.)

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